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Current Topics.

Staple Inn.

THE renovation, now sucessfully completed, of the Holborn frontage of Staple Inn is matter for congratulation to all who are interested in bygone London and its quaint architecture, and in particular to those who love to recall the early educational work which this, like the other Inns of Chancery, sought to accomplish in the days long anterior to the institution of the Council of Legal Education. Although no longer serving its original purpose in preparing students for the practice of the law, we can go back in thought to the days when Sir GEORGE BUC was so charmed with its hall, which he described as "the fayrest Inne of Chancery in this University." Obviously he regarded the Inns of Court and the Inns of Chancery as together forming one university, which, as the late Dr. BLAKE ODGERS, K.C., declared, would indeed have been a good thing. As was the case with the other Inns of Chancery—there were ten in all—Staple Inn, which was governed by a Principal and twelve Ancients, served as a preparatory school for Gray's Inn, to which it was attached. The other Inns of Chancery were also similarly linked to one or other of the Inns of Court. This connection would appear not to have been merely nominal seeing that the practice was for each Inn of Court to send to its dependent Inn of Chancery a reader, accompanied by two utter barristers, who discussed points of law with the students and presided over moots. This intimate association of the Inns of Court and the Inns of Chancery has long ceased, and even the very names of some of the subordinate Inns have faded from memory; but happily the picturesque front and quaint quadrangle of Staple Inn serve to keep its memory green, as does also the fact that it was the residence for a time of Dr. JOHNSON, and the further fact that its quaint charm did not escape the eagle eye of CHARLES DICKENS, who utilised it in the pages of his unfinished story of Edwin Drood.

The Collecting Charities (Regulation) Bill.

THE report of the Joint Committee of the Lords and Commons which has been considering the Collecting Charities (Regulation) Bill has now been published by H.M. Stationery Office. The committee is of opinion that legislation on the lines of the Bill is "definitely required, and should be directed to the prevention of fraud and the control of the growing nuisance of quasi-charitable house-to-house collections." It is thought, however, that the Bill should be directed to the problem of house-to-house collections, and that it is unnecessary that the Bill should be applied to the control of collections in arcades and forecourts, which are private property but to which the public has access, railway stations and sports grounds. For the same reason it is thought that places of entertainment and refreshment should not be dealt with by the measure. If it should be found that when house-to-house collection is controlled there is a large increase in the improper use of other places for collections, further legislation could be introduced. It is urged, however, that provision should be made in the Bill to cover the offer of goods or articles for sale purporting to be in any degree for charity, and that the proposed penalty of £5 is "definitely inadequate." It is further recommended that the regulations made by the Secretary of State should be drawn up in consultation with charitable organisations and should be laid before both Houses of Parliament. The regulations should relate to the following purposes: The prescribing of the information to be given by a promoter when applying for a licence, the requiring of the promoter to furnish the collector with a badge and written authority (and the forms thereof), the requiring of the collector to wear the badge and produce the authority to a constable on demand, the prescribing of the information to be given by the promoter with regard to the proceeds and expenses of the collection, the prescribing of a minimum age for collectors, and, generally, the prevention of fraud and of nuisance to persons invited to contribute, and the facilitation of the enforcement of the Act. It is recommended that the promoters should re-introduce the measure in an amended form in the next session of Parliament.

Advertising from Aeroplanes.

IN connection with the objection to advertisements by means of streamers attached to aeroplanes, lately alluded to in the course of a "Current Topic," it is of interest to note that the Secretary of State for Air was recently asked in the House of Commons whether, in view of the inconvenience caused by the noise of such aeroplanes, he would take steps to amend the regulations with a view to limiting flying over the Metropolitan

area to His Majesty's Air Force and to aeroplanes engaged on other than purely advertising exhibitions. CAPTAIN BALFOUR stated that the matter was receiving careful attention. The questioner then recalled that it was already an offence to use any balloon, parachute, or other similar device for the purpose of advertising on, over, or above any house, and asked the Secretary of State for Air whether, if advertisement streamers were within the meaning of the words "other similar device," he would take steps to see that the law was enforced. Captain BALFOUR expressed doubt on the question whether legally an aeroplane would come within the definition and stated that the matter was a difficult one. There were aspects of technical safety and amenity in question, and both these must receive attention, not only in respect of laying down regulations, but also as to the practicability of enforcing such regulations. He repeated, however, that the matter was under consideration by the Air Ministry. Mention in this connection should be made of Mr. A. P. HERBERT'S Bill to ban air advertisements, the text of which was recently issued. The measure, which as a statute would be known as the Air Advertisements Act, 1938, provides that no advertisement shall be exhibited "upon or by means of any aircraft, balloon, parachute, kite, or other similar device in flight over any part of the United Kingdom or of the territorial waters thereof." Such a measure would have the merit of dispelling any doubts of the nature previously alluded to in this paragraph. The Bill does not seek to prohibit the exhibition on any aircraft used for carrying passengers, goods or mails, for hire or reward of the names of the owner of the aircraft and of the places from and to which the machine is flying. It is proposed that any person to whom or to whose business an advertisement relates shall, until the contrary is proved, be presumed to have procured its exhibition, and that the penalties for a first and subsequent offences should be fines not exceeding £10 and £50 respectively.

Divorce and Insanity: Evidence.

THE attention of readers is drawn to an important circular (No. 853) which the Board of Control have caused to be sent to clerks to the Visiting Committee of Mental Hospitals, clerks to the Managing Committee of Registered Hospitals, and the Resident Licensees of Licensed Houses, in connection with divorce petitions presented under s. 2 of the Matrimonial Causes Act, 1937, on the ground that the respondent is incurably of unsound mind and has been continuously under care and treatment for a period of five years. The Board, it is stated, and many local authorities, have received from parties to proceedings under that section requests for information relating to the mental condition of the respondent and other matters connected with his or her detention under the Lunacy and Mental Treatment Acts. At first, the Board did not contemplate that they would be able to place any of their records at the disposal of the parties; but the proceedings in the first cases heard under these provisions indicated that without the production of some at least of these documents, the administration of the Act might be embarrassed. It is recalled that the position was recently reviewed by the President of the Divorce Division on an interlocutory motion by the Official Solicitor, as a result of which it was made clear that, subject to certain conditions, it would be competent to the Board to disclose these documents and that it was desirable in the public interest that they should disclose them to *bonâ fide* applicants. It is indicated, therefore, that the Board will be prepared to furnish to *bonâ fide* applicants, in connection with proceedings under s. 2 of the Matrimonial Causes Act, 1937, copies of the reception documents and statutory medical reports. A charge will be made for the copies at the rate of 4d. a folio of seventy-two words. The Board, however, reserve the right to refuse to disclose any document or part of a document which they may deem it in the public interest not to disclose.

Motor-Car Brakes.

OUR attention has been drawn to an interesting article which appeared recently in "The Police Chronicle" on the subject of braking efficiency. It will be remembered that the Motor Vehicles (Construction and Use) Regulations, 1937, prescribe the use on motor cars of an efficient braking system capable of bringing the vehicle to rest within a reasonable distance, and they require every part of the braking system and of the means of operation thereof to be maintained in good and efficient working order and to be properly adjusted. The police have statutory powers to inspect brakes, but, it is urged, although such power is conferred, the regulations omit to indicate what degree of braking efficiency should be reached, nor do they approve or suggest any method by which a test may be carried out. The writer of the article pleads for the use of an instrument described, not very euphoniously, as a decelerometer which enables readings to be taken of the decelerative powers of the brakes. Doubtless the task of the police would be much simplified by the employment of such instruments, but we doubt if the public would welcome their introduction, or, indeed, the amendment of the law which would constitute an unfavourable reading conclusive against the alleged offender. Moreover, braking efficiency would appear to be capable of being readily expressed in terms of speeds and stopping distances, and, if further definitive legislation were required, it would, in our view, be preferable to proceed with reference to these simple elements than to introduce some mechanical contrivance as a test of criminal liability. Such considerations do not militate against the utility of such instruments in the hands of the police when carrying out their statutory duties to test the efficiency of brakes under the present conditions.

Rules and Orders: Air Raid Precautions.

THE attention of readers may be briefly drawn to the Air Raid Precautions (Approval of Expenditure) Provisional Regulations, 1938, which have recently been made by the Home Secretary with the concurrence of the Treasury under powers conferred by s. 11 (1) of the Air Raid Precautions Act, 1937. They are dated 18th July, and came into immediate operation as Provisional Regulations. A copy has been sent to the local authorities concerned with an explanatory memorandum, and these are obtainable from H.M. Stationery Office, price 4d. and 3d. respectively. The regulations and the memorandum apply both to general precautions schemes and fire precautions schemes, but a circular (H.M. Stationery Office, price 1d. net) which has also been sent to local authorities states that it is proposed to issue a separate memorandum to fire precautions authorities which will, *inter alia*, give some further guidance as to the practice to be followed on a number of matters relating solely to fire precautions schemes. Forms are shortly to be issued to local authorities for the purpose of ascertaining the necessary particulars with reference to payments of grant in respect of expenditure incurred during the period of fifteen months beginning 1st January, 1937, and advances of grant paid in respect of expenditure estimated to be incurred in the present half of the current financial year. The circular also explains that with regard to the payment of grant in respect of general precautions services it is intended that, in so far as expenditure throughout a county is expenditure for general or special county purposes, a statement of the expenditure shall be submitted by the county council and grant paid to the county council; while, in so far as such services are carried out by councils of the county districts and the cost met from their general rate funds, without reimbursement from the county council, the statement of the expenditure so incurred will be submitted by the individual district councils and the grant will be paid direct to them. Readers desiring further information must be directed to the publications to which reference has been made.

Local Authorities and Misfeasance.

THE recent decision of the Court of Appeal in *Newsome* v. *Darton U.D.C.*, 82 SOL. J. 520, has received less prominence than its importance deserves, for it lays down a proposition which affects all local authorities in their treatment of their roads. In 1933 the defendants, who were the local sanitary authority as well as the local highway authority, made a trench in a highway in order to connect some drains. The excavation was filled in and in 1935, when the surface was finished off by a steam roller, the surface was considered to be level. In 1936 a depression had formed and the jury found that the highway was dangerous to those using it with due care. They found that the original work was not negligently done, but that the dangerous condition was due to the work of the defendants and that they were negligent in not discovering and taking steps to remedy the danger. The plaintiff was thrown from his bicycle owing to the subsidence of the road and was injured, and brought an action against the defendants as the authority responsible for the repair of the road. It was held by the Court of Appeal that there was a duty on the defendants as sanitary authority to make good the inevitable subsidence resulting from their work in 1933. They were negligent in not discovering the danger and not remedying it, and this negligence amounted to misfeasance.

In other words, the urban district council, having dug up the road to connect some drains, were negligent in not seeing that their work had properly "settled." The court had found on the facts that the subsidence was inevitable sooner or later, and that the urban district council were negligent in not discovering the hollow.

It has been settled law for at least 150 years that a highway authority cannot be sued in respect of its failure to keep its roads in order. A highway authority is only responsible for the damage caused by misfeasance, as opposed to nonfeasance or passive inaction. This principle was laid down in *Russell* v. *Men of Devon* (1788), 2 Term. Rep. 667. In *Newsome's Case* Greer, L.J., said: "As regards a sanitary authority, once they exercise their rights as a sanitary authority to make a hole in the road for sanitary purposes then an obligation is put upon them, by the fact that the hole is made for sanitary purposes, in the first instance to fill it up properly and then subsequently to maintain it by the exercise of reasonable care and reasonable supervision." MacKinnon, L.J., gave a particularly clear statement of the law in the same case. He said: "If a defect arises in a highway only as a result of the friction of traffic and the operation of natural causes, and that is not remedied by the authority, that is a defect arising only from nonfeasance. Where, however, the authority either in its capacity as highway authority or otherwise, does something to the surface of the highway, and that which it does is, in addition to the friction of traffic and the operation of natural causes, the origin of the defect which they do not remedy, then the defect may be regarded as the result of misfeasance and not merely nonfeasance." That distinction is a plain one between merely allowing a road to become dilapidated through wear by traffic, and actively doing something to the roadway. The Court of Appeal considered that the case was covered by the decision in *Shoreditch Corporation* v. *Bull* (1904), 90 L.T. 210, where the authority sued was both a sanitary authority and a highway authority. There, as sanitary authority, they had found it necessary to dig a trench along a road to lay a sewer. They filled in the trench but soon afterwards a man driving along the road at night found that the part of the road where the trench had been opened was soft and crossed over to the other side and ran into a heap of rubbish and was injured. The jury found that the part of the road where the trench had been opened had been properly filled in, but had been rendered soft by subsequent rain and was dangerous. It was held that the Corporation were liable in damages. The recent case of *Skilton* v. *Epsom and Ewell U.D.C.* [1937] 1 K.B. 112, was also referred to, but really did not carry the matter much further. The plaintiff, whilst cycling along a road in the defendants' area, reached a line of traffic studs at the same time as a motor car. As the car passed her one of the studs which had become loose shot out and struck her bicycle with such force as to overturn it and the plaintiff was thrown to the ground and injured. The defendants as highway authority had inserted the studs in the roadway under powers conferred on them by the Road Traffic Act, 1930, and the stud had been defective for some time. It was held that the placing of the stud in the highway in such a way that it became defective amounted to the placing of a nuisance on the highway and that the defendants could not take advantage of the cases which dealt with maintenance of the highway because the stud was not brought on to the highway under the Highway Act, 1835, but for the purposes of traffic direction under the Road Traffic Act, 1930.

As Romer, L.J., said in that case, the defendants made a series of holes in the highway, not for the purpose of maintaining the highway at all, but for the purpose of inserting in those holes a certain number of studs.

The duty of an authority which has done an act of the kind that was done in *Newsome's Case* is not unduly heavy. Atkinson, J., in his summing up in the court of first instance, said that they were not expected to go and watch and look over all their road continually. But where they knew that there had been a trench made, which might subside (which was a reference to their function as a sanitary authority) they ought periodically to inspect that place. The position of authorities with regard to misfeasance and nonfeasance is a complicated one, and more than one judge has expressed dissatisfaction at the present position of the law. In *Newsome* v. *Darton U.D.C.*, Greer, L.J., said: "Whether that disability of suing a highway authority ought to have been followed in the cases which apply that old decision (*Russell* v. *Men of Devon*) to the surveyor of highways, and to corporations that took over his duties, is a matter that we are not entitled to consider." Swift, J., sitting as a judge of appeal in *Skilton* v. *Epsom and Ewell U.D.C.* used somewhat stronger words when he said: "The principle in *Russell* v. *Men of Devon* is that a highway authority as such, is only responsible for the danger caused to a user of the highway by misfeasance and not by nonfeasance . . . How long (that principle) will be allowed to continue a principle of law in this country I do not know . . . " Certainly the old rigid rule laid down by *Russell* v. *Men of Devon* has been clarified and to some extent modified by *Skilton's Case*, and now by *Newsome's Case*, and it may well be that further changes in the law may be forthcoming.

The further question arises as to what the position would be if the highway on which the accident took place had been vested in the county council under the Local Government Act, 1929, or in the Ministry of Transport under the Trunk Roads Act, 1936. By s. 1 of the Trunk Roads Act the Minister of Transport was constituted the highway authority for certain important roads in place of the existing authority. By s. 3 of the Act, when a road becomes a trunk road, all functions which were formerly exercised by highway authorities as respects county roads and bridges, and any functions of construction, maintenance and repair formerly exercised by a local authority shall be exercised by the Minister of Transport to the exclusion of any other authority. There are certain exceptions to this section by which such control is not taken away from the existing authority, and these deal mainly with maintenance and repair. Then by s. 5 (1) the Minister of Transport is empowered to delegate to a local authority any of his functions with respect to the maintenance and repair of a trunk road. It should be noticed, however,

that the next sub-section expressly makes the council to which functions have been delegated agent of the Minister.

It is, of course, possible to sue the Minister, for s. 26 (1) of the Ministry of Transport Act, 1919, provides that, "The Minister may sue and be sued in respect of matters, whether relating to contract, tort, or otherwise arising in connection with his office by the name of the Minister of Transport . . . and servants and agents of the Ministry in like manner and to the like extent as if they were his servants . . ." The work, and therefore the liability of the sanitary authorities, remains unaltered, and if an injury similar to the one in *Newsome's Case* occurred, then presumably the local sanitary authority would still be liable. If, however, the subsidence in the road were due to faulty construction or repair of the trunk road, then it would appear that an action would lie against the Minister of Transport, subject always to the question of misfeasance and nonfeasance.

Similar conditions would prevail if the road on which the accident happened were one in respect of which a county council was the highway authority by virtue of s. 29 of the Local Government Act, 1929.

Company Law and Practice.

Prevention of Frauds (Investment) Bill I.

A BILL was introduced into the House of Commons at the end of last month, which has for its object the restriction of certain practices in relation to the formation of companies and dealings in shares which have for some time past been recognised as a growing and serious abuse. The Bill is called the Prevention of Frauds (Investment) Bill, and it will be seen from its name that it is more likely to provide work for practitioners in the criminal courts than for company lawyers. The latter must, however, note the provisions of the Bill with close interest, and the solitary repeal which is proposed to be effected is of a section of the Companies Act, 1929.

The Bill contains twenty-five sections which are divided into five *fasciculi* entitled respectively: Provisions for regulating the business of dealing in securities; Restrictions on registration of industrial and provident societies; General provisions for the prevention of fraud; Exemptions; and Supplementary provisions. Taking these in the order in which they are printed in the Bill, we come first to a group of seven sections which contain provisions for regulating the business of dealing in securities. The general scheme is one whereby the activities contemplated are to be carried on only by persons licensed by the Board of Trade to do so, except in the case of certain institutions which, by virtue of the exemptions contained in later sections, are not required to hold licences. These licences are of two kinds, described as principals' licences and representatives' licences. A principal's licence is defined in the Bill as a licence authorising the holder thereof to carry on the business of dealing in securities, and a representative's licence is defined as a licence authorising the holder thereof to deal in securities as a servant of any holder of a principal's licence which is for the time being in force. "Securities" is given a wide definition which I do not reproduce here, but which seems in practice to be wide enough to embrace all stocks, shares, debentures, etc., such as are normally dealt in on the Stock Exchange, together with those interests in fixed or flexible trusts which are usually called units or sub-units. Any person who carries on the business of dealing in securities, if not licensed or exempt under the Act, would be subject to fairly severe penalties, the maximum being imprisonment for five years and a fine of £500 on conviction on indictment. When the licence is granted it is liable to be revoked and in any case is only valid for one year beginning with the day specified in the licence. A principal's licence will only entitle the person named in it to carry on business in his own name. Wide powers are given to the Board of Trade to refuse to grant a licence or to revoke one when granted if—

> "(1) The applicant or the holder of the licence has not at the time of the application or, as the case may be, at any time when he has been requested by the Board [of Trade] during the currency of the licence so to do, furnished to the Board such information relating to him and to any circumstances likely to affect his method of conducting business, as may be prescribed, being information verified in such manner, whether by statutory declaration or otherwise, as the Board may require, or
>
> "(2) It appears to the Board that—
>
> "(*a*) by reason of the applicant or the holder of the licence, or, when the licence in question is a principal's licence, any servant of the applicant or holder—
>
> "(i) having been convicted in the United Kingdom of an offence his conviction for which necessarily involved a finding that he acted fraudulently or dishonestly, or
>
> "(ii) having been convicted of an offence under this Act, or
>
> "(iii) having committed a breach of any rules made by the Board under this Act for regulating dealings in securities, or
>
> "(*b*) by reason of any other circumstances whatsoever which, in relation to any such person as is mentioned in sub-paragraph (*a*) of this paragraph, reflects discredit upon his method of conducting business;
>
> the applicant or holder is not or, as the case may be, is no longer a fit and proper person to hold a licence."

And the Board may also revoke a principal's licence at any time, if the holder of the licence is not carrying on in Great Britain the business of dealing in securities.

I have set out the whole of these somewhat lengthy provisions as they well show the extent of the discretion which is given to the Board of Trade, and in some measure justify the epithet of "drastic" which has been applied in some quarters to the Bill generally. Sub-section (2) (*b*) is notably wide, and the phrase in sub-s. (1) "circumstances likely to affect his method of conducting business," obviously gives the Board a very wide field in which it may pursue inquiries. The Board is, however, not invested with absolute dictatorial powers, for it is provided by the succeeding section that, in cases where the Board proposes to refuse to grant or to revoke a licence under sub-s. (2) above, it shall serve a written notice of its intention to do so on the applicant or holder, specifying the particular matter upon the consideration of which their decision would be based and inviting him to notify in writing to the Board within seven days whether he desires his case to be referred to a tribunal of inquiry. If he does so desire, then the Board cannot refuse or revoke the licence except on a recommendation of the tribunal. The tribunal will consist of a chairman who must be a member of the legal profession, appointed by the Lord Chancellor, and two persons appointed by the Treasury, and it is evident that in practice much will depend upon the way in which this tribunal will interpret and exercise its powers in the first cases which come before it. The procedure will be regulated by rules to be made by the Board of Trade, and in this connection it is to be observed that the Board will be required to make rules under a number of other sections, thus swelling the already more than unwieldly bulk of operative Statutory Rules and Orders. Other matters which will be the subject of rules under this part of the Bill are regulations affecting the conduct of business by holders of licences, i.e., the class of persons in relation to whom, and the manner and circumstances in which any holder of a licence may deal in securities; the form in which any contract made under the authority of a licence with a person of such a class is to take; the books, accounts and other documents which must be kept by the holder of a principal's licence in relation

to his dealings in securities. It is interesting to observe that the Board is directed to publish the names and addresses of all holders of principals' licences and such holders are required to notify in writing to the Board any changes of address.

Let us now see how these provisions are relaxed in favour of certain persons or classes of persons. In the first place it is provided by the first section that nothing therein contained as to the necessity for holding a licence shall restrict the doing of anything by any member of any recognised stock exchange or recognised association of dealers in securities or by any person for the time being authorised by such a member to deal in securities on his behalf. A recognised stock exchange means the Stock Exchange, London, or a body of persons declared by an order of the Board to be a recognised stock exchange for the purposes of the Act. (This definition is no doubt in some part due to a criticism of s. 356 of the Companies Act, 1929, made in the report on share-pushing of the Departmental Committee of the Board of Trade presided over by Sir Archibald Bodkin. This committee remarked that the same phrase is used in the Companies Act, 1929, but is nowhere there defined.) A recognised association of dealers in securities is likewise a body declared to be so by the Board for the purposes of the Act. Secondly, the proposed new provisions are not to restrict the doing of anything by or on behalf of the Bank of England or any exempted dealer. This brings me to the fourth group of sections which is headed "Exemptions." It contains three sections, the first of which gives the Board power to make, vary or revoke orders declaring bodies of persons to be recognised stock exchanges or recognised associations of dealers in securities. The second of these sections gives the Board the further power to declare any person to be an exempted dealer subject to certain conditions which must prevail throughout the period during which such person is exempted. These conditions can be found in s. 12 of the Bill, and I do not propose to dwell on them in this article. The Board is again directed to publish the names and addresses of all persons who are for the time being exempted dealers. The third exemption relates to trustees of unit trusts. The Act is not to restrict the doing of anything by or on behalf of a person acting in the capacity of an approved trustee of unit trusts or in the capacity of the person in whom the powers of management relating to property for the time being subject to any trust created in pursuance of an authorised unit trust scheme are vested. An approved trustee of unit trusts must be a corporation incorporated in some part of the United Kingdom and having a place of business in Great Britain where notices are received on its behalf; it must be empowered by its constitution to undertake the business of acting as a trustee; and either it must have an issued capital of not less than £500,000 (of which not less than £250,000 has been paid up in cash) together with assets sufficient to meet its liabilities, or it must have more than four-fifths of its capital held by a corporation which fulfils these last requirements.

I have already referred to the report on share-pushing. This report was issued in July of last year and was the subject of a series of articles in these columns. It is interesting at this point to compare the provisions of the new Bill to which I have referred with the recommendations contained in that report for the purpose of restricting the activities of those "outside brokers" who carry on dishonest businesses. It was recommended that no persons should be allowed to transact business in stocks and shares unless registered or exempt from registration. This recommendation has in substance been adopted in the Bill, though the exemptions are not quite the same.

The Bill does not, however, insist on the provision of references and sureties as recommended by the report, and it introduces the tribunal of inquiry where the report suggested an order of the court, except in the case of undischarged bankrupts or persons who pleaded the Gaming Act. Broadly speaking, however, the proposals contained in the Bill adopt and follow up the scheme adumbrated by the report for the better supervision and control of dealings in stocks and shares.

In a further article I propose to deal with the remaining provisions of the Bill.

A Conveyancer's Diary.

Valuation of Annuities where Estate Insufficient to Provide Income to Pay them.

An interesting point upon which there is no precise authority was before the court in *In re Cox; Public Trustee* v. *Eve* [1938] 1 Ch. 556 (82 Sol. J. 233). A testator, by his will, bequeathed a number of pecuniary legacies, and, subject thereto, a number of annuities and, subject thereto, gave various legacies to persons and institutions out of the residue and directed any balance that might be left to be held for the persons who would be entitled to his estate under the A.E.A., 1925. The pecuniary legacies had priority over the annuities and the annuities over the residuary legacies, the annuities being charged upon capital as well as income. The estate was insufficient after payment of the pecuniary legacies and duties to provide by its income alone for the payment of the annuities in full, but it was estimated that after the sale of the real estate there would be sufficient capital to purchase the annuities valued on an actuarial basis and leave a balance available for payment of the residuary legacies subject to abatement.

The question was whether the proper course in such circumstances was to value the annuities and to pay the value so ascertained to the annuitants.

Now, as between pecuniary legatees and annuitants, the rule of administration is clear that where the estate is inadequate to provide for the payment of both in full, it is necessary to have a valuation made of the annuities, and the pecuniary legatees and the annuitants are entitled to have paid to them their legacies and the amount of the valuation of the annuities *pari passu*. It is also the rule that where the contest is not between an annuitant and the residue the annuitant is not entitled to have his annuity valued and the amount of the valuation paid to him. The reason for that is that the annuitant is entitled as between himself and the residuary legatee to have the income and so far as necessary the corpus applied in payment of the annuity; the residuary legatee can get nothing until the annuity is paid in full, but the annuitant can get nothing more than that.

In *Re Cox*, however, the question was not one between the annuitant and the pecuniary legatees because the pecuniary legacies had priority. Nor was the question one between an annuitant and the residuary legatee. The question was whether in order to do justice to the annuitants *inter se* the annuities should be valued and the amount of the valuation paid to the annuitants.

It was contended that that ought not to be done, but that the annuitants should have their annuities paid out of income and corpus until the corpus was exhausted. On the other hand it was said that the course so contended for would be unfair to some of the annuitants. The annuitants being of varying ages, it might be that the older annuitants might get paid in full and the younger ones might not.

The case relied upon and, as will be seen, followed by Simonds, J., is *Re Cottrell* [1915] 1 Ch. 402.

In that case, a testatrix by her will, after giving pecuniary legacies to an aggregate amount of £200, bequeathed to her husband an annuity of £1 a week and directed her trustees to appropriate such a sum as would, when invested, produce an annual sum equal to the amount of the annuity, and to apply

the income and (if necessary) the corpus of the fund so appropriated in payment of the annuity, the sum on the dropping of the annuity to fall into and form part of the residue. The estate was realised and her trustees had in their hands the sum of £1,250. That sum was insufficient to pay the pecuniary legacies in full and to enable a sufficient sum to be set aside and invested in trust securities to produce the annuity. It was, however, sufficient to pay the pecuniary legacies in full and the value of the annuity as at the date of the death of the testatrix. Warrington, J., held that the proper course was to value the annuity according to the Government scale, to pay the amount of such valuation to the annuitant and to pay the pecuniary legacies in full. The learned judge so decided on the ground that only in that way could justice be done to all three classes of beneficiaries.

It was contended that *Re Cottrell* did not apply because there the contest was one between legatees, an annuitant, and the residuary legatees.

In the course of his judgment, Simonds, J., said with reference to that contention: "Logically I can see no reason why, if that is the rule where there is competition between legatees and an annuitant and the residuary legatees as in *Re Cottrell* it should not also be the rule when the competition is between annuitants *inter se* and residuary legatees. To introduce a different rule in the latter case is a refinement which is calculated to cause confusion. Therefore, I propose to follow, not to distinguish, *Re Cottrell*."

It was also argued that *Re Cottrell* was to be distinguished because the testatrix there gave a direction to set aside a sum sufficient to provide the income for the payment of the annuity, whereas in *Re Cox* there was no such direction but only an authority given to set aside a fund.

With regard to that, Simonds, J., said: "I do not think that that makes any difference to the principle of that decision. It is a common experience to find executors coming to the court for directions whether they ought to appropriate and set aside funds to meet an annuity, and such a direction in a will saves them the trouble of doing so. Such a direction is not for the benefit of the annuitant, but is intended to assist the executors in distributing the residue."

His lordship therefore held that the proper course was to value the annuities and pay the amount of the valuation to the annuitants.

Landlord and Tenant Notebook.

Waiver of Covenant as to User.

I CONCLUDED the article on "Continuing Obligations and Waiver" in last week's issue (p. 640), with a reference to *Berton* v. *Alliance Economic Investment Co.* [1922] 1 K.B. 742, C.A., and *Atkin* v. *Rose* [1923] 1 Ch. 522, suggesting that these authorities may have indirectly modified the law laid down in *Griffin* v. *Tomkins* (1880), 42 L.T. 359. "Indirectly," because neither deals substantially with the question of waiver, but both deal with the nature of covenants not to permit or suffer.

In *Berton* v. *Alliance Economic Investment Co.* the plaintiff sued on covenants not to permit the premises or any part thereof to be used for any purpose whatsoever other than for the purpose of a private dwelling-house, and not to do or suffer to be done anything which might in the judgment of the lessors be or grow to the injury or annoyance of the lessors. The premises were sub-let by an assignee of the head term, the under-tenant covenanting against annoyance and against alienation. In breach of his covenant he divided the house into tenements which he let at weekly rents. The assignees of the head lease brought forfeiture proceedings, but did not join the weekly tenants, being advised that they were protected by the Rent Restrictions Acts. The plaintiffs then sued the assignees.

It was held, on appeal, that the defendants had not infringed their covenant. Atkin, L.J., put the position in this way: "To my mind the word 'permit' means one of two things, either to give leave for an act which without that leave could not be legally done, or to abstain from taking *reasonable* steps to prevent the act where it is within a man's power to prevent it." The importance of the word "reasonable" became manifest in the next case.

The claim in *Atkin* v. *Rose* was based on a covenant not to use or exercise or permit or suffer any other person to use or exercise in or upon the premises any trade or business other than that of a bag and portmanteau manufacturer and a covenant against alienation without consent. The tenant underlet, with consent, to an under-tenant, the superior landlord also consenting to the premises being used for the purpose of the business of a retail tobacconist. The tobacconist, without asking for anyone's consent, let the back of the shop part of the premises to a hairdresser for the latter's purposes only. In these circumstances P. O. Lawrence, J., held as follows: "In my judgment the defendant R. [the tenant] has permitted and suffered and is still permitting and suffering the carrying on of the hairdressing business and, therefore, has committed and is still committing a breach of his covenant. In my opinion, it is plainly within the power of the defendant R. to stop the business which G. [the hairdresser] is carrying on." And, with regard to *Berton* v. *Alliance Economic Investment Co.*: "In my opinion the decision in that case does not apply to a case like the present, where, if proper legal proceedings were taken by the defendant R., there could be no defence . . ."

The last two cases do not, it is true, establish that permission of a particular user is not a breach once and for all. There was a plea of waiver in *Atkin* v. *Rose*, based on the ratification of a receipt of rent a few days after the plaintiff purchased the reversion. The learned judge found that there was no knowledge of the breach at the relevant time, but said that even if he were wrong there were "no circumstances which would justify the court in holding that the receipt of the rent amounted to a *general* waiver of the covenant." His lordship then distinguished *Waldron* v. *Hawkins* and *Griffin* v. *Tomkins*, because in those cases there was not only knowledge of user but knowledge that tenancy agreements had been granted. But his lordship added that knowledge that the hairdresser was occupying the back of the shop and carrying on his business there might have made the subsequent receipt of rent a waiver.

I think in the result a distinction can be drawn between cases in which a covenantor himself uses premises for a prohibited purpose and cases in which the unauthorised user is by a sub-tenant. It certainly does not seem safe to say that a tenant in the former category can rely on waiver, but the real difficulty when dealing with cases in which an under-tenant is the actual offender is illustrated by the alternative definition given by Atkin, L.J., and cited above (it will be remembered of course that his lordship was not concerned with waiver): "'Permit' means one of two things, either to give leave, etc., or to abstain, etc." If it means "give leave," the obligation is not, but if it means "abstain" the obligation is, continuing.

But in the course of the same judgment, Atkin, L.J., made the following statement: "For my part I am inclined to think that in certain circumstances a man may *permit the continuance* of an act if he can prevent it by taking legal proceedings and refrains to do so." This, from the point of view of the question of waiver, is a very important *dictum*. It is clear that the word "prevent" is not used in its original restricted sense of "prevent from ever happening at all," but includes "put a stop to."

The judgment and its *dicta* were much referred to in the later case of *Barton* v. *Reed* [1932] 1 Ch. 362. The relevant facts of this case were that landlords complained of their

tenant breaking a covenant and condition not to suffer the premises to be used for business or for any purpose which they might deem to be an annoyance or inconvenience to the neighbourhood. An undertenant whose underlease repeated these provisions sub-let the house demised in a way which was held to constitute both business and annoyance to the neighbourhood. The covenants did not, it will have been noticed, contain the word "permit," but Luxmoore, J., held that "suffer" was a wider term, though in *Berton* v. *Alliance Economic Investment Co.*, they were treated, for the purposes of that case, as synonymous. But, invoking the *dictum* cited in the preceding paragraph, and that of P. O. Lawrence, J., in *Atkin* v. *Rose*, *supra* (note the " is still permitting and suffering "), his lordship held that there was a clear breach by the tenant of both covenants: "It was her duty . . . to take the necessary legal proceedings to stop what Mrs. P." [the under-tenant] "was doing."

There was again no question of waiver in this case, but the submission I would make is that the three most modern authorities show that the obligation not to permit or suffer is a continuing one, and that if rent had knowingly been accepted with knowledge of breaches the lessors could yet have exercised their rights of re-entry. In other words, the position would have been the same as that in *Doe d. Woodbridge* (1829), 9 B. & C. 376, cited at the commencement of the previous article referred to above, in which the tenant, according to the court which heard the case, broke his covenant once a day, though according to *Walrond* v. *Hawkins* (1875), L.R. 10 C.P. 342, also discussed in that article, it was only once a week. The scope of the latter case and of *Griffin* v. *Tomkins* (1880), 42 L.T. 359 (also mentioned therein) appear to have been reduced by the later decisions cited above; but admittedly the rights of the lessor must depend on the tenant suicidally repeating the proviso contained in the head lease.

Our County Court Letter.

ALLOWANCE FOR MANURE FROM RENT.

In *Burgh* v. *Walling*, recently heard at Lancaster County Court, the claim was for £20 as the balance of a half-year's rent of a farm. The defendant claimed to set off an equivalent amount under an agreement. The plaintiff's case was that the farm consisted of 180 acres, and a number of his sheep were left to graze after the defendant's tenancy began. The defendant agreed to look after the sheep, without payment, but fifty-eight of them were drowned in the Lune floods of December, 1936. The plaintiff claimed £50 for their loss plus £50 for the winter eatage used by the defendant before his tenancy began. The claim was eventually settled by the payment of £70, of which £20 was alleged to be returnable on the defendant putting that amount of artificial manure on the land. Having done so, the defendant deducted its value from the next half-year's rent. His Honour Judge Peel, K.C., held that there had been no definite bargain to allow the amount claimed by the defendant. Judgment was therefore given for the plaintiff, with costs.

THE EQUIPMENT OF LENDING LIBRARIES.

In a recent case at Lancaster County Court (*Partington* v. *Barrass*), the plaintiff was a library dealer, and his claim was for £14 as the price of library shelves, a desk and a bracket, plus £3 as damages for their detention. The plaintiff's case was that he had established a lending library at the shop of the defendant, on the terms that the books were to be supplied by the plaintiff, and the profits were to be equally divided. The books were changed three times, and no complaints were received until August, 1937, when the defendant cancelled the arrangement. At the same time he offered 30s. for all the equipment, although the shelving alone had cost £8, and the desk and bracket were worth £4 and £2 respectively. The defendant's case was that the books were not changed, in spite of his frequent requests to that effect. He had always been willing to hand over the articles, and had a counter-claim for the cost of storage. Expert evidence was given that the shelves, as fixed, were worth £4, but they would only realise 30s. in the open market. His Honour Judge Peel, K.C., gave judgment (by consent) for the plaintiff for £6, as the price of the shelves; the desk and bracket to be delivered up; each party to pay his own costs.

HAIRDRESSER AND CUSTOMER.

In *Box* v. *Perry*, recently heard at Bristol County Court, the claim was for damages for negligence. The plaintiff's case was that on the 14th December, 1937, she had had a shampoo at the defendant's saloon. Her head was put into a drier, but the heat did not come on, and she was left alone for twenty minutes, becoming colder and colder. The result was a severe influenza cold. The defendant's case was that a qualified hairdresser attended the plaintiff, whose hair was not washed in cold water, nor did the drier fail to work. Had it not been warm, the plaintiff could have withdrawn her head, or summoned assistance from customers in the other cubicles. No complaint was made at the time, and Christmas greetings were exchanged soon afterwards. Having tested the drier in court (with currents of hot, warm and cold air), His Honour Judge Wethered observed that the plaintiff was an honest witness, who believed she had caught a chill as she alleged. The issues were: had there been any negligence, and (if so) did it result in the plaintiff contracting a chill? The evidence was that the plaintiff was incorrect in thinking she was left alone in the saloon, and also as to the date upon which she called in a doctor. The plaintiff could have freed herself from the drier, if it had not worked properly, but all the allegations of negligence failed. Judgment was given for the defendant, with costs.

RECENT DECISIONS UNDER THE WORKMEN'S COMPENSATION ACTS.

LUMP SUM FOR INJURY TO FOREHEAD.

In *Whitehouse* v. *Mountsorrel Granite Co., Ltd.*, at Loughborough County Court, the applicant had slipped and struck his forehead on a drill in March, 1937. Weekly compensation had been paid, but had ceased in pursuance of a medical report that the applicant's condition was not due to the accident, but to disease. The applicant's medical evidence was that he was deaf and dizzy, and had lost the use of his right arm from the effects of the accident. The respondents' medical evidence was that the condition was due to a disease, which raised the blood pressure. Nevertheless, they were willing to pay £300 and taxed costs. His Honour Judge Galbraith, K.C., approved a settlement for £360 and costs in full discharge of liability.

LIGHT WORK AS MESS-ROOM ATTENDANT.

In *Thomas Vale and Sons, Ltd.* v. *Rees*, at Kidderminster County Court, an application was made to review an agreement of the 5th November, 1935, whereby compensation had been paid to the respondent at £1 2s. 5d. a week from the 21st June, 1935. The accident had happened on the 6th February, 1933, when the applicant was engaged on excavation work. The side of a trench had fallen upon him, and the injuries necessitated the removal of the left eye. The pre-accident wages were £1 19s. 10d., and compensation had been paid until January, 1938, when a certificate was served upon the respondent that he was fit for light work. On the 25th March he was offered a post as mess-room attendant at Upton-on-Severn, where the applicants had a

bridge-building contract. The wage offered was 25s. for a forty-seven hour week, with overtime extra. Compensation would also continue to be paid, but at the rate of 8s. 4d. a week only. The medical evidence was that the respondent was neurasthenic, and (as he was only twenty-eight) his condition would be improved by suitable work. The respondent's medical evidence was that he should not be required to work away from home, as he could not stand any mental or physical strain. His Honour Judge Roope Reeve, K.C., observed that, although the work offered was light, it involved starting punctually and working long hours. The application was dismissed, with costs, on Scale B.

TUBERCULOSIS NOT AN ACCIDENT.

In *Dickens* v. *Northamptonshire County Council*, at Rugby County Court, an award was claimed of £1 a week in respect of an accident on the 22nd May, 1931. The applicant's case was that he had been filling a truck with concrete, when the truck ran back and struck his left knee. A swelling kept him in bed for six weeks, but he returned to work and was paid the same wages (£1 14s. a week) until the end of 1933, when he was away for six months. The applicant worked in 1934, but, in February, 1935, he underwent an operation. After short spells of work, the applicant had further operations in 1936 and 1937, and became totally incapacitated from tuberculosis, which he contended was due to the accident in 1931. The respondents' case was that, as shown by time sheets, the applicant had been at work on some of the dates on which he alleged he was in bed. He had also misled the doctors by saying he had only been in pain for three weeks, instead of two and a half years. The tuberculosis was of long standing, and not the result of the accident. His Honour Judge Hurst gave judgment for the respondents, with costs on Scale B.

LUMP SUM FOR INJURY TO HAND.

In *Wischall* v. *M. Wright & Sons, Ltd.*, at Loughborough County Court, the applicant had been engaged in pushing material through rollers, in which her hand was caught. After recovery, the applicant returned to work, but had to give it up, although there was no physical reason why she could not do it. A settlement was agreed at £100 and £21 costs, and the respondents were willing for the applicant to return at her pre-accident wages. Her work, however, would be folding webbing as it was discharged from a machine and placing it in a basket. Her hand required to be used, and His Honour Judge Galbraith, K.C., approved the settlement.

Practice Notes.

LEGAL REPRESENTATION OF COMPANY.

"A LITIGANT was allowed to appear in person," said Cave, J., in *Re an Arbitration between the London County Council and the London Tramways Company* (1897), 13 T.L.R. 254, "but a company must appear by attorney who could instruct counsel on their behalf." He accordingly declined to allow the chairman of a company to represent the company in court and to move to set aside an award.

Upon the authority of this case and of Bray, J.'s decision in *Scriven* v. *Jescott* (1908), 53 SOL. J. 101, Morton, J., recently held that a company cannot appear in person and can only be represented by counsel: *Frinton & Walton Urban District Council* v. *Walton & District Sand and Mineral Company Ltd. & Another* (1938), 54 T.L.R. 369; 82 SOL. J. 136. The practice of the Central Office—so learned counsel declared—was to refuse to allow a writ to be served by an officer of the company. The learned judge observed that the language of Ord. IV, r. 2, did not contemplate that a company could sue in person. A note in "The Annual Practice" (1938), p. 30, states: "A company or other corporate body can only sue by a solicitor."

DISCRETION TO AWARD INTEREST.

Has the court the power, under s. 3 (1) of the Law Reform (Miscellaneous Provisions) Act, 1934, to award interest on a claim which was instituted before the statute came into force?

An insurance company paid £180 on account of the loss to the mortgagees of a Greek steamer which was lost in 1932. They refused to pay any more, and in an action upon the policy it was held that the steamer was deliberately cast away with the owner's connivance. The company, accordingly, reclaimed the £180 and the innocent mortgagees consented to judgment for this sum with costs. Counsel for the company now applied for interest—as a matter of principle—for the time during which the money had been in the plaintiffs' hands: the defendants, when they had paid the money, did not know that the claim was fraudulent. On the other hand, it was said that the statute was not retrospective; no demand for repayment had been made until November, 1936; only a few days before the trial of the action was interest claimed.

Branson, J., said the section was quite general in its terms: "in any proceedings" the court may order interest. The discretion of the court was not limited to proceedings brought after the Act came into operation. He accordingly awarded interest, fixing a rate of four per cent.: *Bank of Athens Société Anonyme* v. *Royal Exchange Assurance* (1938), 54 T.L.R. 427; 82 SOL. J. 114.

Alterations in procedure are *primâ facie* retrospective: Maxwell, "Interpretation of Statutes" (1937), 8th ed., at p. 199. See also *Barber* v. *Pigden* [1937] 1 K.B. 664, at p. 678, per Scott, L.J.

ENFORCING A DOMINION JUDGMENT.

Until 1933, a litigant might, without restriction, sue in this country upon a dominion or colonial judgment, if he could but effect service.

In 1935, the defendant, being the trustee in bankruptcy of W, sued a company in the Supreme Court of Ontario, claiming that certain shares belonged to W, and that he was entitled to be registered in respect of them. He obtained judgment which was affirmed by the Court of Appeal in Ontario. In 1937, having taxed his costs, he issued a specially endorsed writ in this country claiming £1,108—the balance of costs still due. The company said that by English statutes he had lost his right to sue on the Canadian judgment. MacKinnon, J., gave him judgment which was affirmed by the Court of Appeal (Greer, Slesser and Scott, L.JJ.): *Yukon Consolidated Gold Corporation, Ltd.* (1938), 54 T.L.R. 369.

The Administration of Justice Act, 1920, provides for the *registration* in the High Court of judgments obtained in *superior* courts in *His Majesty's Dominions* (s. 9). But Pt. II of this Act—which deals with reciprocal enforcement of judgments—does not apply until His Majesty is satisfied that reciprocal provisions have been made by the legislature of any part of the dominions (the word is used in the wide sense), for the enforcement there of judgments obtained in the High Court in England. An Order in Council may then be made declaring that Pt. II of the Act shall extend to that part of his dominions; on the Order being made, Pt. II applies. Under the 1920 Act, no restriction existed upon suing on a foreign judgment.

The Act of 1920 dealt only with judgments in the dominions; to deal with *foreign judgments*, the Foreign Judgments (Reciprocal Enforcement) Act, 1933, was passed. The Act of 1933 could also be extended by Order in Council to dominion judgments (s. 7). Where that Act applies to any judgment, no action (other than proceedings to register the judgment)

may be brought upon it here (s. 6). If there is "substantial reciprocity of treatment" as respects the enforcement abroad of a judgment given in the superior courts of the United Kingdom, Pt. I of the 1933 Act may, by Order in Council, be extended to the foreign country (s. 1 (1)). Part II of the 1920 Act had not been extended to Ontario; hence the judgment could not be registered in England. In any case, the 1920 Act did not take away the common law right to sue in England on a foreign judgment, if service could be effected. Further, since no Order in Council had been made extending the Act of 1933 to Ontario, Ontario did not come within that Act so as to bar proceedings here on a judgment obtained there.

SECURITY FOR COSTS.

Berridge v. *Everard* (1938), 54 T.L.R. 462; 82 SOL. J., 173, is an important case, applying the principle laid down in *Stevens* v. *Walker* [1936] 2 K.B. 215 (see per Lord Wright, M.R., at p. 221, and Romer, L.J., at p. 224).

An administrator of an infant killed in a motor accident claimed damages under the Law Reform (Miscellaneous Provisions) Act, 1934, in respect of the loss of expectation of life. It was admitted that the administrator would be unable to pay the defendant's costs. The defendant applied for security for costs, or, in default, that the action be remitted to the county court.

The Court of Appeal (Slesser and Scott, L.JJ.) held that the proper tribunal for this case was the High Court. Very difficult questions of law would arise, based upon *Rose* v. *Ford* [1937] A.C. 826: does the value of expectation of life depend on age? And must the judge or jury take into account enjoyment of life? Upon the answers to these questions would depend the amount which would be recovered if the plaintiff won—which might be "well above the normal county court jurisdiction."

Correspondence.

[*The views expressed by our correspondents are not necessarily those of* THE SOLICITORS' JOURNAL.]

An Appreciation.

Sir,—From time to time one sees reference in the lay press to the congestion in the courts and the delay which takes place in bringing cases on for hearing and trial.

I believe that people generally have the idea that the Chancery Division is particularly noted in this respect, and it is for this reason that I am bringing to your notice a case of exceptional expedition in the handling of work in this Division.

On Tuesday, the 12th of July, I attended with my London agent and a director of my client company to present a petition for an order of the court confirming a reduction of capital and issue a summons for directions. The clerk dealing with the matter in the Registry was very helpful and suggested that the summons could be heard the following Friday, the 15th instant, if the affidavits and exhibits were lodged the next day. These were available and he expedited the issue of office copies of the affidavits so that same, although somewhat lengthy, would be available to submit to the Registrar on Friday, the 15th instant.

I attended again with my London agent and my client on Friday, the 15th, before the Registrar, who, after going carefully into the matter, enquired if I desired the petition to be heard this term. This was more than I expected, as I had only hoped to get the summons for directions heard and an order made so that the matter might come before the court early in the next term. It was then 12.30, and the only date available for hearing the case was the following Monday week, the 25th instant, which left very little time in which so much had to be done.

To assist us the Registrar directed my London agent to telephone to the *London Gazette* to reserve space for the necessary advertisement to appear in that day's issue. He then obtained the services of one of his staff to check the evidence and prepare the necessary order if the evidence was in proper form. This gentleman secured the services of a colleague and between them they spent the whole of their lunch time going through one lengthy and two short affidavits and ten lengthy exhibits. Having done this, they then assisted me in the preparation of the necessary advertisement so that I could get the necessary copies made at once for insertion in the *Gazette* and the local and London papers. I don't think either of these gentlemen had any lunch that day as it was close on 3 o'clock by the time that we had got all we required.

The order was duly made, sealed and issued, and on Monday, the 25th of July instant, having previously sent counsel his brief, I attended with my client when an order was made on the petition confirming the reduction of capital.

From the time of presentation of the petition to the hearing thereof was exactly thirteen days, during which time a summons for directions had been issued, heard, order made thereon, advertisements appeared, and the considerable amount of work necessary in the Registry done by the officials at some inconvenience simply to oblige.

I think, in fairness to all concerned in the department, that publicity should be given to these facts for the benefit of the profession generally.

W. A. ENSOR.

Birmingham.
28th July.

Obituary.

MR. W. H. BOWMAN.

Mr. William Howard Bowman, solicitor, senior partner in the firm of Messrs. Bowman & Evans, of Birmingham, died recently at the age of fifty-six. Mr. Bowman was educated at Bromsgrove School and, having served his articles with Messrs. Wright & Hollins, of Oldbury, he was admitted a solicitor in 1911.

MR. S. E. HOWARD.

Mr. Sydney Edgar Howard, B.A. Cantab., solicitor, senior partner in the firm of Messrs. Nantes, Maunsell & Howard, of Bridport, Dorset, died on Thursday, 4th August, at the age of sixty. Mr. Howard was educated at Blundell's and Pembroke College, Cambridge, and was admitted a solicitor in 1904. He was Town Clerk of Bridport, Coroner for West Dorset, and Clerk to the Magistrates at Bridport.

MR. H. MASON.

Mr. Henry Mason, B.A. Lond., retired solicitor, formerly senior partner in the firm of Messrs. Lindsay, Greenfield and Masons, of King Street, E.C., died at Sunbury-on-Thames on Thursday, 4th August, at the age of eighty-two. Mr. Mason was admitted a solicitor in 1880.

MR. G. E. B. ROGERS.

Mr. George Edward Boulderson Rogers, retired solicitor, of Reading, died on Monday, 25th July, at the age of seventy-eight. Mr. Rogers served his articles with his uncle, the late Mr. Thomas Rogers, a former Town Clerk of Reading, and was admitted a solicitor in 1886. He was Clerk to Goring Rural District Council, Clerk and Registrar to Reading Cemetery Company, and Clerk to Goring Heath Charities Trusts. He retired in 1936.

To-day and Yesterday.

LEGAL CALENDAR.

8 AUGUST.—A trial for murder is a tragic sequel to a law suit, and it was chagrin at having lost an action that brought a respectable young man named Devey to the dock at the Warwick Assizes on the 8th August, 1838. He had been successfully sued for seducing an apprentice from the service of his master and he considered that a man named Davenport had been instrumental in instituting the proceedings. He immediately bought a pair of pistols and practised shooting. Then, meeting his enemy a day or two after the end of the assizes at which the case had been decided, he shot him dead. He was found guilty and hanged.

9 AUGUST.—On the 9th August, 1827, George Fergusson, Lord Hermand, died at the place whence he took his territorial title. He was eighty years old.

10 AUGUST.—It was a toss-up whether George Gardner committed murder or not. He had long owed a grudge to Sarah Kirby, a young woman employed in the same house as himself, because he considered that she would never draw him the proper quantity of beer. He could not make up his mind whether or not to kill her, so he tried his luck by throwing up the "spud" of his plough. If it had fallen flat he would have let her alone, but it came down point foremost, so he shot her dead in the kitchen. He was tried at the Warwick Assizes on the 10th August, 1862, convicted and hanged.

11 AUGUST.—Lord Justice Selwyn died at his home at Richmond, in Surrey, on the 11th August, 1869, less than eighteen months after his appointment to the Court of Appeal, a painful operation having proved fatal to him at the early age of fifty-five. During the greater part of his judicial life he insisted on according seniority of place to Sir William Page Wood, who, though a later appointment to the higher tribunal, had already been a judge for many years.

12 AUGUST.—In a letter to Pepys, dated the 12th August, 1689, Evelyn gives an account of the portrait gallery collected by Clarendon when he was Lord Chancellor, and throws a sidelight on the less-known advantages enjoyed by the holder of that office. "When Lord Clarendon's design of making this collection was known, everybody who had any of the portraits or could purchase them at any price, strove to make their court by presenting them. By this means he got many excellent pieces of Vandyke and other originals by Lely and other the best of our modern masters."

13 AUGUST.—In 1878, Mr. Justice Keogh, one of the most prominent Irish judges of his day, found that his health was failing and went abroad. On the 13th August, while he was staying at an hotel in Belgium, he awakened his valet very early, telling him to get him some tea. The man had just raised the window-blind when, turning round, he found himself facing his master. There was a wild glare of insanity in his eyes, and he was brandishing an open razor. With a savage cry of "Now I'll do for you!" he sprang at his servant, slashing at his ribs. Help arrived in time to disarm the maniac before he actually killed his victim. He was immediately put under proper restraint and next month he died.

14 AUGUST.—The legendary Jack Sheppard was in truth no very impressive criminal, and when he was condemned to death at the Old Bailey on the 14th August, 1724, at the age of twenty-two, it was for breaking and entering a dwelling-house and stealing 108 yards of woollen cloth and two silver spoons. He begged earnestly for transportation on the ground of his youth and ignorance, but in vain. The hangman had already, as the barbarous custom was, tied his thumbs together with whipcord. It was after his sentence that he earned immortality by two of the most spectacular escapes that were ever effected from Newgate.

THE WEEK'S PERSONALITY.

When Lord Hermand died in 1827, the Scottish Bench lost one of its most vivid characters, a man restless, impatient, intense, able and essentially unconventional. On circuit, when a chaplain was standing beside him praying loud and long as if there was nothing else to do but attend to his circuit prayer, the judge did not hesitate to jog him with his elbow and whisper in his strong birr: "We've a great deal of business, sir." His style in court was dictatorial. Once he was disturbed by a noise at the court door, and demanded what it was. "It's a man, my lord," replied the usher. "What does he want?" asked the judge. "He wants in, my lord." "Keep him out!" Evidently the intruder succeeded in obtaining admittance, for shortly after there was another disturbance, and again Lord Hermand demanded the cause. "It's the same man, my lord," was the answer. "What does he want now?" "He wants out, my lord." "Then keep him in." As long as he lived the old tradition of hard drinking and clear thinking so deeply rooted in the Scottish legal world of the eighteenth century had a whole-hearted disciple. With all his impatience and his sarcasm, he remained all his life extremely popular with the Bar.

"GREASING THE WHEELS."

Most people have been surprised to find that there existed a sharepusher so simple hearted that when he had cause to become apprehensive of the law and consulted learned counsel, he should have been ready to believe that a few thousand pounds would prevent prosecution and that for a couple of thousand guineas the wheels of English justice could be greased. ("You can't offer pounds to a judge" seems to have been the way the etiquette of the transaction was explained to him.) But the fantastic imaginings figuring in the story unfolded at the Old Bailey during De Verteuil's trial are not more grotesque than some of the things which actually did happen when Lord Macclesfield was Chancellor and which, when they became public, brought about his downfall. In his time the sale of Chancery Masterships had been brought to a fine art in the hands of a discreet and skilful gentleman called Cottenham who acted as broker.

THE CASE OF THE CLOTHES BASKET.

The episode of the clothes basket is perhaps the most picturesque of the incidents revealed at Lord Macclesfield's trial. A Mr. Elde applying for a vacancy intimated to the Chancellor in plain words and plain figures that he was ready to make him a present of £5,000, receiving the conscientious reply: "You and I must not make bargains." A few days' later he communicated his offer to Cottingham who observed that "guineas are handsomer." Thereupon, the candidate hastened to his chambers, collected 5,000 guineas in cash and notes, seized the most convenient receptacle which happened to be a clothes basket, and hastened to Lord Macclesfield's house. The last he saw of his money was Cottenham carrying it upstairs. Some months later the basket was returned to him empty, but the immediate result of his step was an invitation to dine with the Lord Chancellor, and after dinner he was sworn in. Another candidate secured appointment by leaving his notes on the table of Lady Macclesfield's boudoir.

The Board of Education has accepted the recommendation of the Grants Committee of the National Fitness Council for England and Wales in respect of a grant to the National Cyclists' Union and the Cyclists' Touring Club for the appointment of a national organiser for cycling.

Notes of Cases.

Court of Appeal.

Myers *v.* Rothfield.

Greer, Slesser and MacKinnon, L.JJ. 11th July, 1938.

Solicitor—Clerk's Misconduct—Solicitor not Personally Guilty—Punitive Powers of Court—Whether Exercisable.

Appeal from a decision of Singleton, J.

The plaintiff brought an action against the defendants for defrauding her of money and shares and recovered judgment for £9,000. One of the defendants was serving a term of penal servitude and did not appear at the trial. Another had gone abroad. The plaintiff asked that their solicitor should be ordered to pay the plaintiff's costs on the ground of professional misconduct. Singleton, J., found that there had been misconduct in the preparation of inadequate affidavits of documents which the person who drew them up must have known to be false, and considered that, but for this misconduct, the action would probably have terminated more speedily and might have had satisfactory results. The solicitor had not personally done the work in question, but had left the details of the action in the hands of his managing clerk, one Osborn, who was not an admitted solicitor. Singleton, J., refusing to draw any distinction between the acts of the solicitor and those of his clerk, ordered him to pay one-third of the costs of the action. His lordship defined misconduct as "something which would reasonably be regarded as disgraceful or dishonourable by solicitors of good repute."

Greer, L.J., allowing the solicitor's appeal, said that it was not misconduct on a solicitor's part to leave an unadmitted managing clerk of ability and long experience the conduct of all the interlocutory business in an action. A judge could only exercise the court's punitive powers in relation to a solicitor who was an officer of the court if the solicitor himself had been guilty of conduct which would reasonably be regarded as disgraceful and dishonourable by solicitors of good repute. Here it was not established that there had been such conduct on the part of the solicitor himself. An order to pay part of the costs was as much a punitive order as inflicting a fine (see *Brendon* v. *Spiro* [1938] 1 K.B., at p. 185). There were cases in which solicitors had been ordered to pay costs, not because they had been guilty of misconduct, but because the action they had instituted had been brought without authority. In such cases it did not matter whether the solicitor or his clerk had issued the writ, as the ground there was a warranty by the solicitor that he had his client's authority to act for him in the litigation. If he had in fact no such authority, he could be ordered to pay the costs. That did not depend on the court's authority to punish its officers (see *Simmons* v. *Liberal Opinion, Ltd.* [1911] 1 K.B. 966). The solicitor could be treated as if he were a party to the action and made liable for costs incurred at a time when there was no defendant. *In re Eyre*, 1 C.B. (N.S.) 151, was only a decision that inasmuch as the solicitor there had received money through the fault of his clerk he was bound to return it. In *Dunkley* v. *Farris*, 11 C.B. 457, the court was not exercising disciplinary powers for misconduct, but only making the solicitor pay because there was no one else on whom the costs could have been imposed.

Slesser, L.J., agreed.

MacKinnon, L.J., dissenting, said that this solicitor could not be said to be as free from blame as the solicitor in *Dunkley's Case*, *supra*, for he failed to exercise proper supervision over Osborn in dealing with the business, and should be held responsible for his misconduct.

Counsel: *T. Davis* and *Hobley*; *Willes* and *L. Gluckstein*.

Solicitors: *Burnett L. Elman*; *Peacock & Goddard*, for *Edge & Ellison*, of Birmingham.

[Reported by Francis H. Cowper, Esq., Barrister-at-Law.]

In re a Debtor (No. 382 of 1938).

Greer, Slesser and MacKinnon, L.JJ. 27th July, 1938.

Bankruptcy—Meeting of Creditors—Resolution for Deed of Assignment—Petitioning Creditors Not Opposing—Petition for Receiving Order—Bankruptcy Act, 1914 (4 & 5 Geo. 5, c. 59), s. 5 (3).

Appeal from Mr. Registrar Kean.

At a meeting of creditors in April, 1938, they were asked whether they would agree to the debtor entering into a deed of assignment for their benefit generally. A representative of certain creditors who were now the petitioning creditors was present throughout and stated that they would agree in principle, but that they wished their nominee to be one of the trustees. This amendment having been proposed, failed, and the original motion was put to the meeting and carried *nemine contradicente*. A subsequent resolution for the appointment of a committee of inspection was similarly passed. The registrar having made a receiving order on the petition of the petitioning creditors, the debtor appealed.

Greer, L.J., allowing the appeal, said that the case fell within *In re a Debtor* [1936] Ch. 165, and referred to the Bankruptcy Act, 1914, s. 5 (3). The registrar should have held himself satisfied for sufficient cause that an order ought not to be made. Further, estoppel might arise by refraining from doing an act whereby the persons concerned are misled. Refraining from opposing such a resolution as was here proposed was sufficient evidence to support an estoppel. The representative of the petitioning creditors might have said that as they had failed to secure the nomination of their candidate they declined to have anything to do with the deed of assignment and reserved their rights. Instead, he allowed the resolutions to be carried *nemine contradicente*.

Slesser and MacKinnon, L.JJ., agreed.

Counsel: *Spens*, K.C., and *Raeburn*; *Stable*, K.C., and *A. M. Stevenson*.

Solicitors: *Kenneth Brown, Baker, Baker*; *Elvy Robb & Co.*

[Reported by Francis H. Cowper, Esq., Barrister-at-Law.]

Appeals from County Courts.

Wardell *v.* Kent County Council.

Greer, Slesser and MacKinnon, L.JJ. 11th July, 1938.

Workmen's Compensation—Hospital Nurse—Injury by Accident—Whether Entitled to Compensation as "Workman"—Workmen's Compensation Act, 1925 (15 & 16 Geo. 5, c. 84), s. 3 (1).

Appeal from Maidstone County Court.

A fully qualified hospital nurse employed at a hospital owned and controlled by the Kent County Council was, while so employed, subject to the rules and regulations of the hospital as regarded times of sleeping, meals and recreation. She was under the matron's control, but when she was in a ward she was subject to the control of the sister there. The sister of her ward having ordered her to apply antiphlogistine, the tin exploded while being heated and injured her. She claimed compensation under the Workmen's Compensation Act, 1925, and the council contended that she was not a "workman" within s. 3 (1). His Honour Judge Clements having dismissed her claim, she appealed.

Greer, L.J., delivered a dissenting judgment.

Slesser, L.J., allowing the appeal, said that it was clear from the evidence and the judge's findings that the nurse was required by her contract to obey directions with regard to the manner in which she should do her work, though the person to prescribe the manner varied according to the particular work on which she was engaged. His lordship referred to *Hillyer* v. *St. Bartholomew's Hospital* [1909] 2 K.B. 820, and said that the judge did not seem to have considered that

nurses were the servants of the council even when performing administrative duties. Limiting the matter for the moment to administrative services, that was contrary to the evidence. In administrative duties at least the nurses were under the complete direction of the matron or sister, as the case might be. Had the appellant been injured while performing an administrative duty on the sister's orders, she would have been acting under a contract of service and so been a workman. Had she, as a matter of hospital routine, been placing a hot water bottle in a patient's bed on a cold night (an operation distinct from any curative act) and had the bottle burst she would have been a workman for the purposes of claiming compensation. Did it make any difference if the bottle was on the directions of the sister or the doctor placed on the patient's body for curative purposes? It had been contended for her that on the facts she had entered into one contract and not several contracts and that whether she was performing curative services or not she had agreed to take the orders of the council with regard to the manner of performing her work, exercised either through the doctor, the matron or the sister. The way of looking at the matter more consistent with the structure of the Act as applied to this case was that on the evidence the nurse was always under obedience to the council, though they might choose from time to time the person whose orders she would be called on to obey.

MacKinnon, L.J., agreed.

Counsel: *Paull* and *Seuffert*; *Sir Walter Monckton*, K.C., and *Waddy*.

Solicitors: *W. H. Thompson*; *Joynson-Hicks & Son*.

[Reported by Francis H. Cowper, Esq., Barrister-at-Law.]

Hirschorn *v.* **Evans (Barclays Bank, Ltd., Garnishees).**

Greer, Slesser and MacKinnon, L.JJ.
14th and 15th July, 1938.

Garnishee—Husband and Wife—Joint Banking Account—Judgment Debt against Husband—Garnishee Summons—Whether Account Attached.

Appeal from the Mayor's and City of London Court.

In 1935 a husband and wife opened a joint account with the bank requesting them to receive money from time to time to the credit thereof and authorising them to accept the signature of either jointly or severally or the signature of the survivor as sufficient discharge for the repayment of the moneys deposited. In 1936, judgment was recovered against the husband for a debt and costs of which £13 11s. remained unpaid. In 1938, a garnishee summons was served on the bank reciting the judgment and also reciting that the husband had filed an affidavit reciting that they were indebted to him in the sum of £20. The summons proceeded: "You are hereby summoned to appear at court to show cause why an order should not be made upon you for the payment to the judgment creditor of the amount of the debt due and owing or accruing from you to the said judgment debtor" It was further stated: "Take notice that from and after the service of this summons upon you so much of the debts owing or accruing from you to the judgment debtor as will satisfy the debt due under the judgment . . . are attached to answer this summons." The amount for which the summons was issued was £15 7s. in respect of the balance remaining due, and a sum for costs. The bank had no account in the husband's name, but there was £114 in the joint account. Considering that the summons did not attach this they honoured cheques drawn thereon and by February, 1938, it was overdrawn. His Honour Judge Thomas found on the facts that the money in the joint account was the husband's property and gave judgment against the bank who now appealed.

Greer, L.J., said that the appeal must be allowed. There was no evidence justifying the judge in coming to the conclusion that the debt owed by the bank was due solely to the husband. His lordship differed from his brethren on one point. If the garnishee summons was equivalent to a demand by the husband, he having the right as well as the wife to demand payment of the sum and afterwards money was paid on his cheque, the bank could not rely on that payment as an answer to that which had already been demanded by him through the summons.

Slesser, L.J., said that there was no evidence that the money in the account was solely the husband's property. As the wife was no party to the proceedings and had not been heard to say whether or not she made any claim to the money in the account, it was impossible to say whether it was in equity solely the husband's property. His lordship referred to *Macdonald* v. *Tacquah Gold Mines Co.*, 13 Q.B.D., at p. 539, and said that the account looked at as a whole was a joint account on which the bank was jointly liable to both parties. Therefore, the garnishee summons was misconceived in stating that the bank were indebted to the husband in the sum there stated, whereas in reality they were jointly indebted to him and his wife.

MacKinnon, L.J., agreed.

Counsel: *Stable*, K.C., and *George Bankes*; *N. K. Lindsay*.

Solicitors: *Richards, Butler & Co.*; *Craigen, Hicks & Co.*

[Reported by Francis H. Cowper, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re **Beresford's Will Trusts; Sturges** *v.* **Beresford.**

Morton, J. 13th July, 1938.

Will—Special Power of Appointment in Testator—Bequest of Residue—"I Give, Devise, Bequeath and Appoint"—Whether Power Exercised.

By her will, C.H.B., who died in 1931, left her real and personal estate on trust for sale with power to postpone sale and directed her trustees to stand possessed of the trust fund in trust for C.B. for life and after his death in trust for the issue of C.B. in such shares and in such manner as he should by will appoint. There was a provision in default of appointment. C.B. made his will in 1936. One clause thereof contained the words: "I give and appoint . . . all pictures and photographs . . ." Another clause contained the words: "I give and appoint . . . all articles of personal, domestic, household or garden use, ornament or consumption . . ." In cl. 4 he said: "I give, bequeath and appoint all the rest, residue and remainder of the estate and effects whatsoever and wheresoever both real and personal to which I shall be entitled, or of which I shall have power to dispose at my decease and including any entailed property" to trustees on trust for sale with power to postpone sale. He directed them to stand possessed of the proceeds after payments of debts, funeral and testamentary expenses, duties and legacies in trust to invest the same and pay the income to his wife for life. By cl. 5, he directed that from the death of his wife the residue should be held in trust for all or any of his children who, being male, attained twenty-one years or, being female, attained that age or married, in equal shares. He had no power of appointment exercisable by will other than that now in question. The point for decision was whether he had exercised it.

Morton, J., said that in the first two clauses the word "appoint" was mere surplusage. His lordship proposed to apply in considering the other clauses the rule in *Von Brockdorff* v. *Malcolm*, 30 Ch. D., at p. 179. No great importance attached to the use of the word "appoint" in cl. 4. The testator had no power to direct his debts to be paid out of the fund. He gave a life interest to his wife who was not an object of the power. That was inappropriate to its exercise. There could be no appointment of the income to his wife. His lordship preferred to follow *In re Cotton*, 40 Ch. D. 41; *In re Weston's Settlement*

[1906] 2 Ch. 620, and *In re Saunderson*, 106 L.T. 26, than to follow *In re Swinburne*, 27 Ch. D. 696 and *In re Ackerley* [1913] 1 Ch. 510. C.B. did not exercise the power.

COUNSEL: *Hon. Charles Russell*; *A. Fuller*; *F. Fuller*. SOLICITORS: *William Sturges & Co.*; *E. S. Read*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

In re Foster; Hudson *v.* Foster (No. 2).

Crossman, J. 15th July, 1938.

INSURANCE—LIFE ASSURANCE—POLICY TAKEN OUT BY FATHER ON SON'S LIFE—DEATH IN SON'S LIFETIME—PREMIUMS PAID BY OR ON BEHALF OF SON TILL DEATH—BELIEF OF ALL PERSONS CONCERNED THAT HE WAS OWNER OF POLICY—POLICY MONEYS HELD BY COURT TO BELONG TO FATHER'S ESTATE—WHETHER SON'S ESTATE ENTITLED TO LIEN.

In 1908 R.F. took out a policy of assurance on the life of his thirteen-year-old son W.F. He died in 1925, having paid all the premiums till then. W.F. continued to pay the premiums till 1932, when he became of unsound mind. An order was made by the master in lunacy that the policy was to be kept on foot. Thereafter, the receiver appointed for his estate paid the premiums. He died in 1936. Crossman, J., having held (82 SOL. J. 584) that the policy moneys belonged to the legal personal representative of R.F., the question arose whether the legal personal representative of W.F. was entitled to a lien thereon in respect of the premiums paid since the death of R.F.

CROSSMAN, J., having referred to *In re Leslie*, 23 Ch. D. 552, at pp. 564, 565, said that it had been contended that a lien could be acquired when a person paid a premium in the belief that he was owner of the policy. His lordship found as a fact on the evidence that all concerned had acted in the mistaken belief that W.F. was the owner of the policy. This was the material circumstance, and the payment of all the premiums was made on that basis and in accordance with an implied arrangement amongst all the parties. In the circumstances, the legal personal representative of W.F. was entitled to a charge on the policy moneys for the premiums paid by W.F. and by the receiver. It had also been contended on the basis of *In re Tyler* [1907] 1 K.B. 865, that the legal personal representative of R.F. should be ordered to do what was fair and equitable and repay the premiums. But he was not an officer of the court like the Official Receiver in that case. The legal personal representative of R.F. could not have been ordered to repay the premiums unless it had been found that he was bound to do so.

COUNSEL: *J. L. Stone*; *R. W. Turnbull*.

SOLICITORS: *Sweepstone, Stone, Barber & Ellis*, for *Ford & Warren*, of Leeds; *Speechly, Mumford & Craig*, for *Mumford, Thompson & Bird*, of Bradford.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Probate, Divorce and Admiralty Division.

Herod *v.* Herod.

Sir Boyd Merriman, P. 28th July, 1938.

DIVORCE—PETITION ON GROUND OF DESERTION—PETITIONER'S OWN ADULTERY—COURT'S DISCRETION TO GRANT RELIEF—MATRIMONIAL CAUSES ACT, 1937 (1 Edw. 8 and 1 Geo. 6), c. 57, ss. 2 (*b*) and 4.

This was a husband's undefended petition for divorce on the ground of desertion in which he prayed that the discretion of the court might be exercised in his favour with regard to adultery committed by him during the period of the alleged desertion. The question having been raised as to whether the wife could be said to continue to desert in law when the petitioner had committed adultery, after reception of evidence the matter was adjourned for argument by the King's Proctor.

SIR BOYD MERRIMAN, P., in the course of delivering a considered judgment, said that the question was a difficult one would be understood from the fact that in the Commonwealth of Australia, where for some years Acts similar to that which he was considering had been in force, there had been an acute conflict of judicial opinion, culminating in a recent decision of the High Court of Australia dismissing a petition on the ground that the adultery of the petitioner was an absolute bar. When he added that it was quite plain that in Scotland, where divorce for desertion had been the law for nearly four centuries, the petitioner could not possibly succeed on the facts of the present case, and that in England any petition based on the principles and rules of the Ecclesiastical Courts must also fail, while, under the purely statutory jurisdiction of the court, the point had never been the subject of direct decision, the difficulties did not diminish.

The contention against the right of the petitioner to obtain a decree might be stated as follows: That adultery, however much the gravity of the offence might be mitigated by the circumstances, committed by a petitioner during the period, however prolonged, after the respondent had wilfully withdrawn from co-habitation was an absolute answer to the allegation that "desertion without cause" subsisted at any time thereafter, whether the fact was known or unknown to the respondent and whether or not it had any influence on his or her conduct: and that in such circumstances it followed that the question of exercising discretion in favour of the petitioner could not arise. The rival contention was based on the fact that in the Matrimonial Causes Act, 1937, adultery of the petitioner during the marriage was expressed to be a discretionary bar to obtaining a decree of divorce, without discriminating between the various grounds on which such a decree might be pronounced, and that as desertion for the statutory period was, by itself, one such ground, it followed that the petitioner's adultery could not be an absolute bar. It had also been argued that cause for desertion could only be that which operated to produce the effect: or, in other words, that the question whether or not the continuance of the respondent's desertion was caused by the petitioner's adultery was to be decided subjectively and not objectively. Though it might well be that the contention that adultery could only be a discretionary bar, and not a defence, to a petition based on desertion went too far, it was manifest that there was no possible reconciliation between those conclusions, the methods of approach to which were fundamentally different. The nature of desertion had been described in the judgments in *Jackson v. Jackson* [1924] P. 19, and *Frowd* v. *Frowd* [1904] P. 177. Continuing, his lordship said that those descriptions made it clear that the intention wrongly to bring the co-habitation to an end was an essential element in the offence of desertion. To succeed under the Act of 1937 a petitioner must prove not only the original intention but that that intention had persisted during the requisite period and still persisted up to the moment of the presentation of the petition. It was manifest that the deserter's intention, whether to repent and make amends on the one hand, or to persist in desertion on the other, may be affected by the adultery of the deserted spouse. But it seemed impossible to hold that adultery of which the deserter was proved to be entirely ignorant, or to which, if it was known, he or she was proved to be entirely indifferent, could have affected his or her own intention in the matter, which must therefore, be judged from his or her conduct and declarations, and not solely from the conduct of the petitioner. Where the intention of a wrongdoer was in issue the real existence of a state of things, believed by him to exist, was not always an essential element in the proof of intention. If the intention permanently to break up the matrimonial home was established either by a wrongdoer's own declarations or because his conduct had been such as to lead to the conclusion that he must have intended that result, it seemed to him (his lordship)

that he was guilty of desertion: and that he continued to be so, notwithstanding that the other spouse had been guilty of a breach of the matrimonial obligations which was proved to have had no influence on his intention. His lordship, after reviewing *Symons* v. *Symons* [1897] P. 167; *Hunter* v. *Hunter* [1905] P. 217; and *Hale* v. *Hale*, 32 T.L.R. 53, continuing, said that they were cases in which a wife based her petition on adultery coupled with desertion, and invoked the discretion of the court in respect of her own adultery. In two of them the King's Proctor intervened, and the argument turned not on the question whether there was jurisdiction to exercise discretion at all because the desertion had terminated by the petitioner's adultery, but on the propriety of exercising discretion in the circumstances of the case. It was really inconceivable, if the subsequent adultery of a deserted wife was recognised as constituting an absolute defence to the charge of desertion, as distinct from disentitling her to sue (which had been the position in the ecclesiastical courts resulting from the principle that a petitioner must come before the court with clean hands), that the point should have been ignored by judges of the division, as well as by the King's Proctor and counsel representing him. In his (his lordship's) opinion, although there was abundant authority that an adulterous petitioner was barred from certain forms of relief in respect of desertion, there was no authority binding the English court to the principle that if a spouse committed adultery after he or she had been deserted the desertion was necessarily terminated as a matter of law regardless of the question whether the deserter knew of the adultery or whether it had any influence on his or her conduct. He was not prepared to adopt any such principle. Finding as he did, therefore, in the present case that the wife was probably unaware of, and certainly was in no way affected or influenced by, the husband's adultery, and that, on the contrary, if the desertion could not be said to have brought it about, his adultery was somewhat excused by the circumstances in which he found himself, and because it was in the interests of decency that he should be able to marry the woman in question, he (his lordship) would exercise his discretion in the petitioner's favour.

COUNSEL: *The Attorney-General* (Sir Donald Somervell, K.C.), and *H. W. Barnard*, for the King's Proctor; *S. E. Karminski*, and *J. E. S. Simon*, for the petitioner.

SOLICITORS: *Peacock & Goddard*, for *Rothera, Sons and Husbands*, Nottingham.

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

Books Received.

The Law of Trade Marks. By H. KEYNES TURNER, M.C., F.I.R.I., Solicitor and Patent Agent. 1938. Demy 8vo. pp. xxxii and (with Index) 358. London: The Solicitors' Law Stationery Society, Ltd. 25s. net.

An Outline of Constitutional Law. By WALTER IAN REID FRASER, B.A., LL.B., Advocate. 1938. Demy 8vo. pp. xi and (with Index) 228. London, Edinburgh and Glasgow: William Hodge & Co., Ltd. Price 10s.

The Conveyancer and Property Lawyer. Vol. 2 (New Series). Edited by DONALD C. L. CREE, M.A., of Lincoln's Inn, Barrister-at-Law, and HAROLD POTTER, LL.B., Solicitor of the Supreme Court. 1938. Royal 8vo. pp. xv and (with Index to Vols. 1 and 2) 508. London: Sweet & Maxwell, Ltd. £1 5s. net.

The Woolwich Equitable Building Society has appointed Mr. E. G. Dixon vice-chairman in succession to the late Sir Ernest Kemp. The vacancy on the board of directors has been filled by Mr. Hugh E. Thoburn.

Rules and Orders.

THE RULES OF THE SUPREME COURT (No. 1), 1938. DATED JULY 29, 1938.

We, the Rule Committee of the Supreme Court, hereby make the following Rules:—

1. The following amendments shall be made in Order LV D:—

(*a*) In the heading after the words "Cinematograph Films Act, 1927"* shall be added the words "and application under the Cinematograph Films Act, 1938."†

(*b*) In Rule 1 the words "of the above mentioned Act (in this Order called the Act)" shall be omitted and the following words shall be substituted therefor:—"of the Cinematograph Films Act, 1927 (in this Order called the Act of 1927) and every application under the Cinematograph Films Act, 1938 (in this Order called the Act of 1938)."

(*c*) Rule 2 shall stand as paragraph (1) of Rule 2 and after the words in Rule 2 "section 9 (1) of the Act" there shall be inserted the words "of 1927."

(*d*) Rule 3 shall be renumbered and shall stand as paragraph (2) of Rule 2.

(*e*) The following Rule shall be inserted after Rule 3 and shall stand as Rule 3:—

"3. Any person aggrieved by any decision taken by the Board of Trade under Part III of the Act of 1938 may within thirty-five days of the date of the decision issue an originating summons (as near as may be in Form 1B in Appendix K) asking for the decision of the Court in the matter."

2. Fee No. 106 in Appendix N shall be revoked and the following Fee shall be substituted therefor:—

	£ s. d.	£ s. d.
"106. And for printing, the amount actually and properly paid to the printer not exceeding (per folio)	0 2 8	0 2 8

3. These Rules may be cited as the Rules of the Supreme Court (No. 1), 1938, and shall come into operation on the 15th day of August, 1938, and the Rules of the Supreme Court, 1883, shall have effect as amended by these Rules.

Dated the 29th day of July, 1938.

Maugham, C.	*C. J. W. Farwell*, J.
Hewart, C.J.	*Walter Monckton.*
Wilfrid Greene, M.R.	*Gerald A. Thesiger.*
F. B. Merriman, P.	*C. H. Morton.*
A. C. Clauson, L.J.	*Douglas T. Garrett.*
Finlay, J.	

* 17 & 18 Geo. 5, c. 29. † 1 & 2 Geo. 6, c. 17.

THE COUNTY COURT (No. 2) RULES, 1938. DATED JULY 29, 1938.

1.—(1) These Rules may be cited as the County Court (No. 2) Rules, 1938.

(2) An Order and Rule referred to by number in these Rules means the Order and Rule so numbered in the County Court Rules, 1936, as amended.*

(3) A Form, Scale or Item referred to by number in these Rules means the Form, Scale or Item so numbered in the Appendices to the County Court Rules, 1936.

(4) The County Court Rules, 1936, as amended, shall have effect as further amended by these Rules.

2. In Rule 2 of Order V the following paragraph shall be added and shall stand as paragraph (3):—

"(3) Where two or more persons are made defendants, whether as jointly or as severally liable, the plaintiff may have judgment against any one or more of the defendants and may issue execution thereon, without prejudice to his right to proceed with the action against any other defendant."

3. Paragraph (2) of Rule 2 of Order X shall be revoked.

4. The following amendments shall be made in Order XV:—

(*a*) Rule 2 shall be revoked and the following Rule shall be substituted therefor:—

"2. *Service on added defendant.*]—Where any person is ordered to be added or substituted as a defendant, except under Rule 11 of this Order, the amended originating process shall be served on the added or substituted defendant according to the Rules applicable to the service of the originating process, and the proceedings as against him shall be deemed to have begun only on the service of the process on him."

* S.R. & O. 1936 (No. 626) I, p. 282, as amended by 1936 (No. 1312) I, p. 655; 1937 (No. 239) p. 532 & 1938 No. 18.

(*b*) The marginal note to Rule 5 shall be omitted and the following words shall be substituted therefor :—

"Unliquidated claim in default action."

5. Rule 8 of Order XXVII shall be revoked and the following Rule shall be substituted therefor :—

"8. *Order to pay out money paid in by garnishee.*]—Where money is paid into court by the garnishee and accepted by the judgment creditor, the registrar may on production of the consent in writing of the judgment debtor order the money to be paid out before the return day, or in the absence of the consent of the judgment debtor the judge may on the return day after hearing the judgment creditor and the judgment debtor, if he appears, make such order in the proceedings (including an order as to costs) as may be just."

6. The following amendments shall be made in Rule 11 of Order XXXIV :—

(*a*) The words "direct the registrar to report the matter to the Lord Chancellor and may, with the consent of the Lord Chancellor" shall be omitted.

(*b*) In the marginal note the words "with consent of Lord Chancellor" shall be omitted.

7. The following amendments shall be made in Order XLVII :—

(*a*) In Rule 21 the following paragraph shall be added and shall stand as paragraph (3) :—

"(3) *Instructions for brief or conducting cause.*]—If in any particular case the judge is satisfied that the solicitor's charge for taking instructions for brief to counsel on trial or arbitration or reference or the solicitor's charge for attendance at court and conducting the cause without counsel ought not to be limited to the amount appearing in the Scale and certifies to that effect at the hearing, the fee to be allowed on taxation shall be such larger sum as the registrar thinks reasonable."

(*b*) In Rule 30 the following paragraph shall be added after paragraph (3) and shall stand as paragraph (4) :—

"(4) Where a report in writing has been obtained from an expert witness who is not entitled to a qualifying fee, the registrar may if he thinks such a report was reasonably necessary allow a fee of one guinea therefor."

(*c*) In the proviso to Rule 30 the words "for a report in writing or for" shall be inserted after the words "qualifying to give evidence or."

(*d*) Proviso (*b*) to paragraph (1) of Rule 41 shall be revoked.

(*e*) Rule 42 shall be revoked and the following Rule shall be substituted therefor :—

"42. *Objections to taxation and review.*]—(1) Any party dissatisfied with the taxation of any costs by the registrar may apply to the registrar to reconsider the taxation.

(2) The application may be made on the day of taxation and if not so made—

(*a*) the application shall be made on notice ; and

(*b*) the notice shall be filed in the court office within two days of the taxation and unless otherwise ordered by the court shall operate as a stay of execution in respect of the costs until the application has been heard ; and

(*c*) the notice shall specify the items in respect of which the application is made and the grounds and reasons for the objections.

(3) On the hearing of the application the registrar shall reconsider his taxation on the objections and shall if requested by either party state in writing the reasons for his decision thereon.

(4) Any party dissatisfied with the reconsideration of the taxation by the registrar may apply for a review of the taxation by the judge.

(5) The application may be made on the day on which the registrar has reconsidered the taxation and if not so made sub-paragraphs (a), (b) and (c) of paragraph (2) of this Rule shall apply with the necessary modifications.

(6) On the hearing of the application the judge may make such order as may be just."

8. In the proviso to Rule 16 of Order XLVIII the words "the amount fixed, if required" shall be omitted and the following words shall be substituted therefor :—

"any costs which the plaintiff may be ordered to pay to the defendant in the action."

9. In the second marginal note to Form 21 (1) the words "Order IX, Rule 1 (1)" shall be omitted and the following words shall be substituted therefor :—

"Order IX, Rule 2 (1)."

10. Forms 87 and 88 shall be revoked.

11. At the end of Form 240 the following paragraph shall be added :—

"If before the return day you send to the judgment creditor your consent in writing to the money being paid out to him, you may reduce your liability for costs."

12. The following amendments shall be made in Item 65 of the Higher Scales of Costs :—

(*a*) A reference to item 18 shall be substituted for the reference to item 63.

(*b*) At the end of the item the following words shall be added :—

"*Note.*—Where a letter is written in lieu of making an attendance which could be properly allowed under item 35, 36, 37, 39, 40, 41, 45, 51 or 63, the same charge may be allowed for the letter as could have been allowed for the attendance."

13. We, the undersigned members of the Rule Committee appointed by the Lord Chancellor under Section 99 of the County Courts Act, 1934,† having by virtue of the powers vested in us in this behalf made the foregoing Rules, do hereby certify the same under our hands and submit them to the Lord Chancellor accordingly.

S. A. Hill Kelly. *Austin Jones.*
T. Mordaunt Snagge. *J. Alun Pugh.*
Barnard Lailey. *Gilbert Hicks.*
William Procter. *H. A. Dowson.*

Approved by the Rule Committee of the Supreme Court.

Claud Schuster.
Secretary.

I allow these Rules which shall come into force on the 1st day of September, 1938.

Dated the 29th day of July, 1938.

Maugham, C.

† 24 & 25 Geo. 5, c. 53.

Societies.

The Law Society.

PROVINCIAL MEETING, 1938.

As previously announced in these columns, the Provincial Meeting of The Law Society will be held in Manchester on Tuesday and Wednesday, the 27th and 28th September. Particulars of the arrangements have been circulated to members. Those members who contemplate attending the meeting should intimate their intention as soon as possible to Mr. A. H. Goulty, the Hon. Secretary of the Manchester Law Society, 6, Brown Street, Manchester, 2.

Legal Notes and News.

Honours and Appointments.

The King has been pleased to approve a recommendation of the Home Secretary that Mr. HENRY HOLLINGDRAKE MADDOCKS be appointed Recorder of Burton-upon-Trent, to succeed Dr. A. E. W. Hazel, K.C., who has resigned. Mr. Maddocks was called to the Bar by the Inner Temple in 1921, and practises on the Oxford Circuit.

The King has approved of the rank and dignity of King's Counsel to His Majesty in Scotland being conferred on Mr. JAMES FREDERICK STRACHAN, Advocate.

The Colonial Office announces the following appointments and promotions in the Colonial Legal Service :—Mr. C. P. CONNELL, appointed Resident Magistrate, Kenya ; Mr. W. E. EVANS, appointed Crown Counsel, Northern Rhodesia ; Mr. D. F. SHAYLOR, appointed Assistant Registrar of Titles and Conveyancer, Land and Survey Department, Uganda ; Mr. G. E. STRICKLAND, appointed Crown Counsel, Nyasaland ; Mr. R. TOWNSEND, appointed Resident Magistrate, Fiji ; Mr. M. V. CAMACHO (Attorney-General, Jamaica) appointed Chief Justice, British Guiana ; Mr. R. O. SINCLAIR (Magistrate, Protectorate Court, Nigeria), appointed Resident Magistrate, Northern Rhodesia ; Mr. E. N. TAYLOR (Magistrate, Federated Malay States), appointed Official Assignee and Registrar of Companies, Straits Settlements.

Mr. W. RAINEY-EDWARDS, Clerk and Solicitor of Deben Rural District Council, has been appointed Town Clerk of St. Ives, Cornwall. Mr. Rainey-Edwards, who was admitted a solicitor in 1933, is Hon. Secretary of the East Suffolk Branch of the Rural District Councils Association.

Mr. H. R. MCDOWELL, solicitor, of Leeds, has been appointed Deputy Town Clerk of Leeds, in succession to Mr. O. A. Radley, who, as announced in our issue of 16th July, has been appointed Town Clerk. Mr. McDowell was admitted a solicitor in 1929.

Mr. A. USHER, Assistant Solicitor at Wednesbury, has been appointed Assistant Solicitor to the Shrewsbury Corporation. Mr. Usher was admitted a solicitor in 1934.

Mr. ALAN BRADLEY, solicitor, Deputy Town Clerk of Bebington, has been appointed Clerk to the Frimley and Camberley Urban District Council. Mr. Bradley was admitted a solicitor in 1934.

Mr. E. F. BARRETT, Assistant Magistrate's Clerk to the Mansfield (Notts) Justices, has been appointed Clerk to the Chatham Magistrates.

Notes.

The International Building Club will shortly open new premises at 141, Park Lane, London, W. The purpose of the club is mainly social and membership is open to all associated with the building industry. The president is Sir Harold Bellman, M.B.E., J.P., and the vice-presidents include Mr. J. E. Mitchell, F.A.L.P.A., Past President of the Incorporated Society of Auctioneers and Landed Property Agents, Mr. W. A. Workman, F.I.A., Managing Director of The Legal & General Assurance Society, Ltd., Colonel W. Gibson, F.S.I., and H. J. Hewlitt, F.A.I. The secretary is Mr. L. J. F. Lawler, of 35, Basildon Court, Devonshire Street, W.1.

The National Union of Welsh Societies, at a meeting at the Eisteddfod on 3rd August, says *The Times*, decided to launch a national petition to the Government praying for the repeal of cl. 20 of the Statute of Henry VIII, which prohibits the use of the Welsh language in the courts of Wales, and asking that the Welsh language be placed on an equality with English in all proceedings connected with the administration of justice and public life in Wales and Monmouthshire. The proposed petition found unanimous support, but on the motion of Mr. Saunders Lewis it was agreed that a small council should be appointed to decide upon the exact terms of the petition so that it would be comprehensive enough to embrace all they had in view. It was also agreed to appoint an interim council to which representatives of various interests would be added later to consider arrangements for the signatures to and the presentation of the petition.

Wills and Bequests.

Mr. Stanley Nicholson, solicitor, of Walton-on-the-Naze, left £17,284, with net personalty £23,965.

Mr. Willis Lee Oxley, solicitor, of Tuxford, Notts, left £8,475, with net personalty £7,422.

Mr. William Hilton Perkin, solicitor, of Kensington and of Lincoln's Inn Fields, left £31,789, with net personalty £30,544.

Mr. John William Robinson Punch, solicitor, of Castleton, Danby, Yorks, and of Middlesbrough, left £83,919, with net personalty £72,901.

Mr. George Marvell Riley, solicitor, of Halifax, left £38,943, with net personalty £36,084.

Mr. John Percy Simpson, solicitor, of Kensington and Houghton Street, W.C., left estate of the gross value of £13,601, with net personalty £13,280. He left £150 to the Royal Masonic Hospital.

DEPARTMENTAL COMMITTEE ON DISTRESS FOR RENT.

The Minister of Health, Mr. Walter Elliot, has appointed a committee with the following terms of reference: "To consider the observations in paragraph 119 of the Report of the Rent Restrictions Acts Committee (1937, Cmd. 5621), and to advise whether the protection against distress for rent now afforded to tenants of controlled houses should be extended to the tenants of decontrolled houses and other houses of a similar class, and to make recommendations on any other questions in relation to distress for rent in premises of the above classes which may seem to be of importance." The members of the Committee are His Honour Judge C. W. Lilley (Chairman), Miss Thelma Cazalet, M.P., T. D. Harrison, Esq., Philip R. Longmore, Esq., O.B.E., Alderman Sir Miles E. Mitchell; Hon. A. E. A. Napier, C.B., T. M. Pritchard, Esq., S. S. Silverman, Esq., M.P., Graham White, Esq., M.P. Mr. H. S. H. Hall, D.S.O., of the Ministry of Health, has been appointed Secretary to the Committee. All communications regarding the Committee's work should be addressed to the Secretary of the Committee, Ministry of Health, Whitehall, S.W.1.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 25th August 1938.

	Div. Months.	Middle Price 10 Aug. 1938.	Flat Interest Yield.	‡ Approximate Yield with redemption
			£ s. d.	£ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	110½	3 12 5	3 4 6
Consols 2½%	JAJO	75¼	3 6 5	—
War Loan 3½% 1952 or after ...	JD	102⅞	3 8 1	3 4 9
Funding 4% Loan 1960-90	MN	113¾	3 10 4	3 2 6
Funding 3% Loan 1959-69	AO	99	3 0 7	3 1 0
Funding 2¾% Loan 1952-57	JD	97¼	2 16 6	2 18 9
Funding 2½% Loan 1956-61	AO	91½	2 14 8	3 0 4
Victory 4% Loan Av. life 22 years ...	MS	112½	3 11 1	3 3 11
Conversion 5% Loan 1944-64 ...	MN	114⅞	4 7 0	1 17 0
Conversion 3½% Loan 1961 or after	AO	103½	3 7 8	3 5 7
Conversion 3% Loan 1948-53 ...	MS	101⅝	2 19 0	2 16 0
Conversion 2½% Loan 1944-49 ...	AO	100⅛	2 9 8	2 7 6
Local Loans 3% Stock 1912 or after	JAJO	88½	3 7 10	—
Bank Stock	AO	349½	3 8 8	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	83½	3 5 10	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	90	3 6 8	—
India 4½% 1950-55	MN	113	3 19 8	3 3 7
India 3½% 1931 or after	JAJO	94½	3 14 1	—
India 3% 1948 or after	JAJO	81½	3 13 7	—
Sudan 4½% 1939-73 Av. life 27 years	FA	109½	4 2 2	3 18 5
Sudan 4% 1974 Red. in part after 1950	MN	110	3 12 9	2 19 11
Tanganyika 4% Guaranteed 1951-71	FA	110	3 12 9	2 19 11
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	106	4 4 11	2 12 11
Lon. Elec. T. F. Corpn. 2½% 1950-55	FA	92	2 14 4	3 2 3
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	103	3 17 8	3 15 2
Australia (Commonw'th) 3% 1955-58	AO	89	3 7 5	3 15 11
*Canada 4% 1953-58	MS	108	3 14 1	3 6 2
*Natal 3% 1929-49	JJ	100	3 0 0	3 0 0
New South Wales 3½% 1930-50 ...	JJ	97	3 12 2	3 16 4
New Zealand 3% 1945	AO	95	3 3 2	3 17 10
Nigeria 4% 1963	AO	108	3 14 1	3 10 3
Queensland 3½% 1950-70	JJ	96	3 12 11	3 14 5
*South Africa 3½% 1953-73	JD	102	3 8 8	3 6 7
Victoria 3½% 1929-49	AO	98	3 11 5	3 14 5
CORPORATION STOCKS				
Birmingham 3% 1947 or after ...	JJ	87	3 9 0	—
Croydon 3% 1940-60	AO	96	3 2 6	3 5 2
*Essex County 3½% 1952-72 ...	JD	103	3 8 0	3 4 7
Leeds 3% 1927 or after	JJ	86	3 9 9	—
Liverpool 3½% Redeemable by agreement with holders or by purchase...	JAJO	101	3 9 4	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	72½	3 9 0	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	86	3 9 9	—
Manchester 3% 1941 or after ...	FA	86	3 9 9	—
Metropolitan Consd. 2½% 1920-49 ...	MJSD	98	2 11 0	2 14 3
Metropolitan Water Board 3% "A" 1963-2003	AO	90	3 6 8	3 7 8
Do. do. 3% "B" 1934-2003 ...	MS	91	3 5 11	3 6 9
Do. do. 3% "E" 1953-73	JJ	96	3 2 6	3 3 10
*Middlesex County Council 4% 1952-72	MN	108	3 14 1	3 5 8
* Do. do. 4½% 1950-70	MN	113	3 19 8	3 3 7
Nottingham 3% Irredeemable ...	MN	87	3 9 0	—
Sheffield Corp. 3½% 1968	JJ	101½	3 9 0	3 8 5
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture ...	JJ	106⅛	3 15 1	—
Gt. Western Rly. 4½% Debenture ...	JJ	113½	3 19 4	—
Gt. Western Rly. 5% Debenture ...	JJ	127½	3 18 5	—
Gt. Western Rly. 5% Rent Charge ...	FA	120½	4 3 0	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	115½xd	4 6 7	—
Gt. Western Rly. 5% Preference ...	MA	100½xd	4 19 6	—
Southern Rly. 4% Debenture ...	JJ	105½	3 15 10	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	106½	3 15 1	3 11 9
Southern Rly. 5% Guaranteed ...	MA	117½xd	4 5 1	—
Southern Rly. 5% Preference ...	MA	99½xd	5 0 6	—

* Not available to Trustees over par.

‡ In the case of Stocks at a premium, the yield with redemption has been calculated at the earliest date; in the case of other Stocks, as at the latest date.